

Improper Reliance Upon Foreign Language Documents

It has been repeatedly held by the Honorable Board of Patent Appeals that the Examiner must provide an English language translation of any applied foreign language document. Hence, the Examiner's citation and reliance upon J'536 and WO'534 is improper. *Ex parte Bonfils*, 63 USPQ2d 1456 (BPAI 2002); *Ex parte Gavin* 62 U.S.P.Q2d 1680 (BPAI 2001), *Ex parte Jones* 62 USPQ2d 1206 (BPAI 2001).

J'536

Although the burden is not upon Applicants, submitted herewith as Exhibit A is a partial English language translation of a relevant portion of J'536, i.e., [0027] and Fig. 2. For the convenience of the Examiner, Applicants note J'536 discloses a technique of how to force-cool an optical perform when canceling the optical fiber drawing because the drawn optical fiber is out of standards, as shown in paragraph [0027]. Accordingly, J'536 does not disclose or suggest a technique for cooling an upper portion of a perform container and adjusting a cooling quantity **during** the fiber drawing operation, as in the present invention.

It should, therefore, be apparent that J'536 neither discloses nor suggests the concept of cooling an upper portion of a perform container and adjusting a cooling quantity **during** the fiber drawing operation, as in the claimed invention. Ergo, even if the applied references are combined, the claimed invention would **not** result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988)

WO'534

Applicants submit herewith, as Exhibit B, a certified English language translation of the priority document. Accordingly, this application is entitled to a filing date of December 13, 1998, antedating the effective date of WO'534 which is October 1999. Thus, WO'534 is not prior art with respect to the claimed invention.

Conclusion

Based upon the foregoing, Applicants submit that the imposed rejections of claims 1-2, 7 and 8 under 35 U.S.C. § 103 for obviousness predicated upon J'832 in view of J'536 or WO'534 is not factually or legally viable and, hence, solicit withdrawal thereof.

Claims 5-6, 14 and 15 were rejected under 35 U.S.C. § 103 for obviousness predicated upon J'832 in view of J'536 or WO'534 and Kubo et al. This rejection is traversed.

Claims 5 and 6 depend from independent claim 1, while Claims 14 and 15 depend from independent claim 7. Applicants incorporate herein the arguments previously advanced in traversing the imposed rejection of claims 1 and 7 under 35 U.S.C. § 103 for obviousness predicated upon J'832 in view of J'536 or WO'534. The additional reference to Kubo et al. does not cure the previously argued deficiencies in the attempted combination of J'832 in view of J'536 or WO'534.

Applicants, therefore, submit that the imposed rejection of claims 5, 6, 14 and 15 under 35 U.S.C. § 103 for obviousness predicated upon J'832 in view of J'536 or

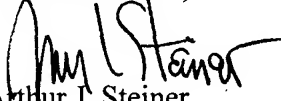
WO'534 and Kubo et al. is not factually or legally viable, and, hence, solicit withdrawal thereof.

Applicants acknowledge, with appreciation, the Examiner's indication in the Office Action Summary that claims 3, 4, and 9 through 13 are subject to objection but contain allowable subject matter, apparently inadvertently omitting claims 11 and 13 from the indication of allowable subject matter in ultimate paragraph appearing on page 3 of the October 7, 2002 Office Action. For reasons previously advanced, the imposed rejections have been overcome and all pending claims are in condition for immediate allowance. Favorable consideration is, therefore, respectfully solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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APPENDIX

Claim 7 now read as follows.

sub C1

7. (Twice Amended) An optical fiber drawing furnace comprising a furnace core tube through which a fiber perform penetrates vertically, a heater disposed around said furnace core tube, and a perform container connected to an upper portion of said furnace core tube so as to be integral with said furnace core tube to form a semi-closed space opening in part at a lower end, for housing said fiber perform inside,

said fiber drawing furnace further comprising:

an auxiliary heater disposed at an upper portion of said perform container;

cooling means for cooling the upper portion of said perform container; and

at least one temperature sensor for measuring an internal temperature in the upper portion of said perform container, wherein said cooling means includes a control unit for adjusting the cooling quantity, based on the temperature measured by said temperature sensor.

Claim 8 has been cancelled.